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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,514	02/18/2004	Russell W. Strong	IVI 1033 PUS	2955
27256	7590	08/24/2004	EXAMINER	
ARTZ & ARTZ, P.C. 28333 TELEGRAPH RD. SUITE 250 SOUTHFIELD, MI 48034			COLETTA, LORI L	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,514

Applicant(s)

STRONG, RUSSELL W.

Examiner

Lori L. Coletta

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-24, 26, 27 and 29 is/are rejected.
- 7) ☒ Claim(s) 17, 25 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **elastomeric coupling or isolation for purpose of absorbing energy (claim 20) and shock absorbing mounting system is actively adjustable (claim 24)** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Art Unit: 3612

2. The drawings are objected to because reference character “62” in Figure 1 needs to be changed to reference character –60--. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

Reference character **25b** [0025] is not shown in the Figures.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled

Art Unit: 3612

"Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract of the disclosure is objected to because the language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc. Correction is required. See MPEP § 608.01(b).

Claim Objections

5. Claims 1-29 are objected to because of the following informalities:

Regarding claim 1, "the external protection" (line 2) needs to be changed to the --external protection system--.

Regarding claim 2, "The system" (line 1) needs to be changed to --The external protection system--. See same deficiencies in claims 3-29 (line 1).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3612

Regarding claim 29, “in connection with a vehicle where other elements adjust” (line 3) is not clear. What is meant by “in connection with a vehicle where other elements adjust”?

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-16, 18-22 and 26-29, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Hartmann et al. 5,810,427.

Regarding claim 1, Hartmann et al. ‘427 discloses an external protection system for a vehicle having a passenger compartment, the external protection system comprising a plurality of external guards (8, 10, 12) in communication with said passenger compartment, said plurality of external guards (8, 10, 12) being spaced a distance away from said passenger compartment such that a crush zone exists between said plurality of external guards and said passenger compartment in Figure 1.

Regarding claim 2, Hartmann et al. ‘427 discloses the external protection system, wherein at least one of said plurality of external guards (8) consists of a structural rail (16) in Figure 2a.

Regarding claims 3, 5, Hartmann et al. ‘427 discloses the external protection system, wherein said structural rail (16) is integrally styled with the design character of the vehicle in Figures 2a and 2b.

Regarding claims 4 and 16, Hartmann et al. '427 discloses the external protection system, wherein at least one of said plurality of external guards (8, 10 and 12) is structural surface in Figure 1.

Regarding claim 6, Hartmann et al. '427 discloses the external protection system, wherein at least one of said plurality of external guards (8) consists of a combination of at least one guide rail (16) and at least one structural surface in Figure 2a.

Regarding claim 7, Hartmann et al. '427 discloses the external protection system, wherein at least one of said plurality of external guards (8, 10 and 12) can be deployed from a normal position to a protective position by an actuation mechanism for energy absorption purposes in the event of a crash in Figures 2a.

Regarding claim 8, Hartmann et al. '427 discloses the external protection system, wherein said actuating mechanism includes one or more sensors, which can deploy at least one external guard to said protective position when said one or more sensors detect an impending crash condition (column 7, lines 47-57).

Regarding claim 9, Hartmann et al. '427 discloses the external protection system, wherein said actuating mechanism includes one or more sensors, which can deploy said at least one external guard to said protective position when said one or more sensors detect first collision contact.

Regarding claim 10, Hartmann et al. '427 discloses the external protection system, wherein said actuating mechanism includes one or more sensors, which can deploy said at least one external guard to protection position when said one or more sensors detect a rollover condition.

Regarding claim 11, Hartmann et al. '427 discloses the external protection system wherein said at least one of said plurality of external guards (8, 10 and 12) includes at least one airbag (38) housed therein that can be deployed by an actuating mechanism to protect said passenger compartment from impact by absorbing force imported thereto in Figure 3a.

Regarding claim 12, Hartmann et al. '427 discloses the external protection system, wherein said at least one airbag (38) housed within said at least one external guard (8), functions for purpose of impact absorption in conjunction with at least one interior airbag (46) within said passenger compartment in Figures 4a, 4b and 4c.

Regarding claim 13, Hartmann et al. '427 discloses the external protection system, wherein said actuating mechanism includes one or more sensors, which can deploy said at least one airbag when said one or more sensors detect an impending crash condition.

Regarding claim 14, Hartmann et al. '427 discloses the external protection system, wherein said actuating mechanism includes one or more sensors, which can deploy said at least one airbag when said one or more sensors detect first contact collision.

Regarding claim 15, Hartmann et al. '427 discloses the external protection system, wherein said actuating mechanism includes one or more sensors, which can deploy said at least one airbag when said one or more sensors detect a rollover condition.

Regarding claim 18, Hartmann et al. '427 discloses the external protection system, wherein a combination of said at least one guard rail and said at least one structural surface, may be utilized to effect a design.

Art Unit: 3612

Regarding claim 19, Hartmann et al. '427 discloses the external protection system, wherein at least one of said plurality of external guards is rigidly mounted to said passenger compartment and vehicle structure.

Regarding claim 20, Hartmann et al. '427 discloses the external protection system, wherein at least one of said plurality of external guards is mounted to the vehicle by an isolation for purpose of absorbing energy.

Regarding claim 21, Hartmann et al. '427 discloses the external protection system, wherein at least one of said plurality of external guards protective guard is mounted to the vehicle by a shock absorbing system.

Regarding claim 22, Hartmann et al. '427 discloses the external protection system, wherein said shock absorbing system is a hydraulic mechanism.

Regarding claim 26, Hartmann et al. '427 discloses the external protection system, wherein said shock absorbing system is in communication with at least one sensor to effectuate activation upon a predetermined sensed condition.

Regarding claim 27, Hartmann et al. '427 discloses the external protection system, wherein at least one of said plurality of external guards is moveable between an extended position and a retracted position.

Regarding claim 29, Hartmann et al. '427 discloses the external protection system, wherein said at least one external guard can be moved to said retracted position for reducing the size of the vehicle.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartmann et al. 5,810,427 in view of Horansky et al. 4,995,660.

Regarding claim 23, Hartmann et al. '427 discloses the external protection system but does not show wherein the shock absorbing system is a pneumatic mechanism.

Horansky et al. '660 teaches a pneumatic shock absorbing system (28) (column 4, lines 15-30).

Regarding claim 23, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the external protection system of Hartmann et al. '427 with a pneumatic shock absorbing system, as taught by Horansky et al. '660, in order to provide highly accurate repetitiveness at a reduced noise level.

12. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartmann et al. 5,810,427 in view of Poertzgen et al. 6,209,307.

Regarding claim 24, Hartmann et al. '427 discloses the external protection system but does not show wherein the shock absorbing system is a rheomagnetic mechanism.

Poertzgen et al. '307 teaches a rheomagnetic shock absorbing system.

Art Unit: 3612

Regarding claim 24, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the external protection system of Hartmann et al. '427 with a rheomegnetic shock absorbing system, as taught by Poertzgen et al. '307, in order to provide continuously variable shock absorber.

Allowable Subject Matter

13. Claims 17, 25 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Double Patenting

14. Applicant is advised that should claim 4 be found allowable, claim 16 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited references show several other external protection systems similar to that of the current invention.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori L. Coletta whose telephone number is (703) 306-4614. The examiner can normally be reached on Monday-Friday 6:00am-2:30pm.

Art Unit: 3612

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lori L. Coletta
Lori L. Coletta
Primary Examiner
Art Unit 3612

llc
August 19, 2004